

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**PAT BRITTON, Personal  
Representative of the Estate of  
JESSE BRITTON, Deceased,**

**Plaintiff,**

**v.**

**DAN KLING, in his Official and  
Individual Capacities; RICHARD  
THOMPSON, in his Official and  
Individual Capacities; and CITY OF  
CRAWFORD, a Nebraska Political  
Subdivision,**

**Defendants.**

**CASE NO. 7:08CV5008**

**ORDER**

This matter is before the Court on the Plaintiff Pat Britton's motion to extend time to file a response to the Defendants' motions for summary judgment based on qualified immunity. (Filing No. 75). Defendant Dan Kling opposes the motion, because Britton failed to respond within the allotted time. (Filing No. 77).

On July 1, 2009, Kling filed a motion for summary judgment. (Filing No. 55). On July 29, 2009, the Court ordered Britton to respond to the Defendants' summary judgment motions<sup>1</sup> on or before August 14, 2009. (Filing No. 68). The Court further stated that the Defendants' motions for summary judgment would be ripe for decision on August 27, 2009. (*Id.*)

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<sup>1</sup>In addition to Kling's motion for summary judgment, also pending are summary judgment motions filed by Defendant Richard Thompson, and Defendant City of Crawford. (Filing Nos. 53, 64.)

On August 24, 2009, Britton filed a motion to compel discovery (Filing No. 72). On September 1, 2009, the Court denied the motion to compel and noted that the Defendants' motions for summary judgment were ripe for decision. (Filing No. 74).

NeCivR 6.1(a)(2) permits an extension of time for good cause shown. Counsel for Britton has indicated that she did not file a response to the motions for summary judgment within the allotted time because she was awaiting the Court's decision on her motion to compel, which concerned discovery to be used in Britton's response to the summary judgment motions. While counsel for Britton should have requested an extension before her response time expired, the Court will grant the belated motion in the interest of justice, to prevent Britton from suffering a harsh penalty due to the untimeliness of the motion for extension, and because the delay should not cause any significant harm or inconvenience for Kling.

Accordingly,

IT IS ORDERED:

1. The Plaintiff Pat Britton's motion to extend time to file a response to the Defendants' motions for summary judgment (Filing No. 75) is granted; and
2. The Plaintiff Pat Britton must file any response to the Defendants' motions for summary judgment (Filing Nos. 53, 55, and 64) on or before September 18, 2009.

DATED this 9<sup>th</sup> day of September, 2009.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge